

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
EASTERN DIVISION

DENNIS JOEL IVEY,)	
)	
Movant,)	
)	
VS.)	No. 16-1008-JDT-egb
)	
UNITED STATES OF AMERICA,)	
)	
Respondent.)	
)	

ORDER TRANSFERRING § 2255 MOTION AS
SECOND OR SUCCESSIVE PURSUANT TO 28 U.S.C. § 2244(b)(3)

On January 13, 2016, the Movant, Dennis Joel Ivey, Bureau of Prisons register number 20635-076, filed a *pro se* motion pursuant to 28 U.S.C. § 2244, seeking leave to file a second or successive motion under 28 U.S.C. § 2255. (ECF No. 1.) The Clerk construed the document as a § 2255 motion and opened it as a new case. Although the caption of the document indicates that it was intended for the Sixth Circuit Court of Appeals (*id.* at 1), Ivey did not actually file his motion in the appellate court.¹

As indicated in Ivey’s motion, he filed an initial § 2255 motion on September 18, 2009, which was ultimately denied. *Ivey v. United States*, No. 09-1203-JDT-egb (W.D. Tenn. Aug. 23, 2012). However, based on the decision in *Johnson v. United States*, 135 S.

¹ A search of the Sixth Circuit’s electronic public docket sheets reveals nothing filed by the Movant currently pending in the Court of Appeals.

Ct. 2551 (2015), Ivey now seeks to challenge his enhanced sentence under the Armed Career Criminal Act, 18 U.S.C. § 924(e).

This Court cannot consider Ivey's successive § 2255 motion absent authorization by the Court of Appeals. Therefore, Ivey's motion is hereby TRANSFERRED to the Sixth Circuit pursuant to 28 U.S.C. § 2244(b)(3). The Clerk is directed to close this case without entry of judgment.

IT IS SO ORDERED.

s/ **James D. Todd**
JAMES D. TODD
UNITED STATES DISTRICT JUDGE